

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NILSA FRANCO,

**NOTICE OF PARTIAL
MOTION TO DISMISS
PLAINTIFF'S
COMPLAINT AND
AMEND PLEADING**

Plaintiff,

Civil Action No.
14 CV 1909 (ILG) (RER)

-against-

ADA DIAZ, JULIO DIAZ, and MAXIMINA VARGAS

Defendant.

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Defendants, by and through his undersigned counsel, hereby moves this Court, on the attached Memorandum of Law and Declaration of Rocco G. Avallone, Esq., dated July 9, 2014, along with the attached exhibits will move this Court on a date and time to be determined by the Court, at the United States Courthouse for the Eastern District of New York, located at 225 Cadman Plaza, Brooklyn, New York, or as soon thereafter as counsel may be heard, for an order pursuant to Rule 12(b)(6) and 15(f) of the Federal Rules of Civil Procedure for a partial dismissal of the Plaintiff's Complaint and amendment of the Answer with Counterclaims and for such other and further relief as this court may deem just and proper.

Dated: Lake Success, New York
July 9, 2014

Respectfully submitted,

Avallone & Bellistri, LLP

A handwritten signature in cursive script, reading "Rocco G. Avallone".

ROCCO G. AVALLONE (RA8055)
Attorney for Defendants
3000 Marcus Ave. Suite 3E7
Lake Success, New York 11042
516-986-2500

TO: Alice Davis, Esq.
47-01 Queens Blvd., Suite 203B
Sunnyside, NY 11104
(347)472-3500
Attorney for Plaintiff

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

: ss.:

COUNTY OF NASSAU)

ROCCO G. AVALLONE, being duly sworn says, I am not a party to the action, am over 18 years of age and reside in the County of Suffolk, State of New York.

On July 9, 2014, I served a true copy of the within NOTICE OF MOTION; DECLARATION OF Rocco G. Avallone with Exhibits; and MEMORANDUM OF LAW IN OPPOSITION AND IN SUPPORT by ECF and by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the addressee as indicated below:

Alice Davis, Esq.
Catholic Migration Services
47-01 Queens Blvd., Suite 203B
Sunnyside, NY 11104



Rocco G. Avallone

Sworn to before me this
9th day of July, 2014


NOTARY PUBLIC